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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,755	01/19/2004	James Jen	14186 B	2876
36672	7590	04/20/2006	EXAMINER	
CHARLES E. BAXLEY, ESQ. 90 JOHN STREET THIRD FLOOR NEW YORK, NY 10038			DAVIS, CASSANDRA HOPE	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/761,755	JEN, JAMES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cassandra Davis	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 February 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 7-10 is/are pending in the application.
  - 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bucknell, UK Patent Application 2 170 757 in view of Schirneker, DE 37 18369 and Nielsen, U. S. Patent 2,092,520.

3. With respect to claim 1, Bucknell teaches table decoration employing candles comprises a rotating bearer (15) with an ornaments (16) fixed to its external surface, a vertical rod (12) and base (11) that support the rotating bearer (15). The vertical rod (12) is vertically fixed to the base (11) and candles emitting heat (13) are set on the base (11) under the rotating bearer (15). The ornaments are fixed to the external surface of the rotating bearer (15) has partial side surface formed into evenly distributed vanes (16) with air-vane rake face and exit. The rotating bearer (12) has a recess (35) at its inner top center and the vertical rod (12) has short vertical upward taper rod (25) such that the recess (35) rest on the tip of the rod

(25) so that the rotating bearer (12) can freely rotate. (See lines 101-106).

The rotating bearer (15) with ornaments (16) fixed to its external surface is put downward vertically with the recess (35) resting into the rod (25) at the top of the vertical rod (12). The candle source emitting heat (13) warms the air in proximity and forms a low pressure at the light source (13), thus forming a rising air flow that acts on the driving vanes (16) of the ornament to produce lateral force, resulting in driving the rotating bearer (15) and the ornament fixed to its external surface rotate around the rod (12).

4. Bucknell does not teach the short tapered rod on the rotating bearer and the recess on the vertical rod and a sound gadget.

5. Schirneker teaches a rotating shadow luminary comprising a rotating bearer (1,15) with ornamental openings (22) on the surface thereof, a vertical rod (16), stirrup (23) and base (24) that support the rotating bearer (15). The vertical rod (16) is vertically fixed to the stirrup 23 which is fixed to the base (24) and a candle emitting heat (25) is set on the base (24) under the rotating bearer (15). The rotating bearer (15) formed into evenly distributed vanes (19) with air-vane rake face and exit. The rotating bearer (15) has a bearing pin or ball (17) situated in counter bearing or recess (not labeled) at the top center of the vertical rod (16). The rotating bearer (15).

The candle source emitting heat (25) warms the air in proximity and forms a low pressure at the light source (25), thus forming a rising air flow that acts on the driving vanes (19,21) resulting in driving the rotating bearer (15) around the rod (12).

6. Nielsen teaches a heat induced rotating display comprising a base 6, lights 9 mounted on the base, a vertical support 12, vanes /fan wheels 11, display objects 25 and bells 15. In operation the heat from the lights 9 causes rotation of the fan wheels 11. When the fan wheels rotate the centrifugal force will cause the display object to swing outwardly sufficiently to cause the weighted strands to strike the bells, thereby creating a sound gadget.

7. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the taper rod and recess of the vertical rod and rotating bearer of the device taught by Bucknell with the taper rod or pin mounted on the rotating bearer and the recess on the vertical rod as taught by Schirneker, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

8. In addition, it would have been obvious to construct the device taught by Bucknell and Schirneker with the display object and bell arrangement taught by Nielson to enhance the aesthetic appearance of the device as well and bring attention to the device by the sound.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bucknell in view of Zer et al., U. S. Patent 5,860,725.

10. Zer et al. teaches a heat operated rotatable device comprising a rotating bearer (12) with ornamental openings (14) on the surface thereof, a rod (26), top cap (22) and base (24) that support the rotating bearer (12). The rod (26) is fixed to the base (24) and a candle emitting heat (40) is set on the base (24) under the rotating bearer (12). The rotating bearer (12) has a bearing pin or pivot post (28) situated in recess (30) at the top center of the top cap (22).

11. Nielsen teaches a heat induced rotating display comprising a base 6, lights 9 mounted on the base, a vertical support 12, vanes /fan wheels 11, display objects 25 and bells 15. In operation the heat from the lights 9 causes rotation of the fan wheels 11. When the fan wheels rotate the centrifugal force will cause the display object to swing outwardly sufficiently

to cause the weighted strands to strike the bells, thereby creating a sound gadget.

12. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the taper rod and recess of the vertical rod and rotating bearer of the device taught by Bucknell with the pivot post or pin mounted on the rotating bearer and the recess on the top cap on the vertical rod as taught by Zer et al, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

13. In addition, it would have been obvious to construct the device taught by Bucknell and Schirneker with the display object and bell arrangement taught by Nielson to enhance the aesthetic appearance of the device as well and bring attention to the device by the sound.

#### ***Response to Arguments***

14. Applicant's arguments with respect to claim 10 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone

number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
April 17, 2006